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STATE PASS USTR FOR AUSTR WEISEL AND DAUSTR DBELL  
COMMERCE FOR JBAKER

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SUBJECT: Singapore-Kuala Lumpur Air Route Excluded From Competition Act

REF: SINGAPORE 469

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11. (U) The Ministry of Trade and Industry (MTI) issued an order on September 25, 2007 excluding the 1982 Air Shuttle Service Operation Agreement (ASA) between Singapore Airlines and Malaysia Airlines from the Competition Act. MTI cited in its decision a section of the Competition Act that states certain anti-competitive agreements may be excluded "in order to avoid a conflict between the provisions of (the Act) and an international obligation of Singapore."

12. (U) Section 34 of the Competition Act aims to prohibit, inter alia, price fixing and market limitations. However, MTI's exclusion allows the two airlines to continue to coordinate scheduling on the Singapore-Kuala Lumpur route without fear of contravening the Act. (Note: The ASA created a duopoly on that route. End note.) In explaining its decision, MTI also noted that the ASA only allows for limited air traffic between Singapore and Kuala Lumpur. MTI claimed that should Singapore Airlines and Malaysia Airlines not be able to coordinate scheduling, the number of flights between the two cities could be reduced, harming customers.

13. (SBU) Comment: Despite professing a commitment to liberalized air markets, this decision marks the third instance the GOS has exempted a potentially non-competitive agreement from the Competition Act (reftel). That Singapore's national carrier stood to lose its share of a lucrative duopoly is probably relevant to MTI's decision. The decision will likely merely postpone the inevitable, as an ASEAN agreement will allow unlimited travel between the organization's capitals by 2009. However, the GOS owns shares in at least three regional and low cost carriers, ensuring a continued stake in the action even as Singapore Airlines (presumably) loses business on the Singapore-Kuala Lumpur route. End comment.

SHIELDS